

INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE
ALCOHOL AND TOBACCO TAX DIVISION



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RETURN SYSTEM FOR PAYMENT OF TAXES ON TOBACCO PRODUCTS

Manufacturers and importers of tobacco,
cigars, and cigarettes:

Purpose. The purpose of this industry circular is to give preliminary information that will help you effectively plan for a smooth transition from the payment of tax under the stamp system, or the daily return system in the case of cigars, to the payment of taxes on all tobacco products on the basis of returns.

Background. The Secretary of the Treasury has authorized the payment of taxes on domestic tobacco products on the basis of semimonthly returns, with the first return to cover the period June 24 through July 8, 1959. This method of taxpayment will be mandatory, will eliminate the use of stamps for the payment of taxes on cigars, cigarettes, and manufactured tobacco, and will eliminate the optional daily return system for the payment of taxes on cigars, except in the case of customs bonded manufacturing warehouses, class 6. Temporary rules (to be followed by permanent regulations) are being drafted, involving the following principal features.

Manufacturers Tax Returns. Manufacturers of tobacco, cigars, and cigarettes will pay taxes on tobacco products on the basis of semimonthly returns. The tax periods will be the 24th day of each month to the 8th day of the succeeding month, inclusive, and the 9th day to the 23rd day of each month, inclusive. Separate tax returns will be filed for each factory. The tax return, with remittance, will be filed, with the district director of internal revenue for the district in which the factory is located, within three days (exclusive of Saturdays, Sundays, and legal holidays) after the close of the period for which the return is filed, except for the last return in each fiscal year, which will be filed within two days. The return will show, for each day of the return period, the total removals subject to tax.

Amount of Bonds. The amount of the bond of a manufacturer of tobacco products shall be not less than the amount of the tax liability on such products manufactured in his factory, received without payment of tax from other factories, and released to him without payment of tax from customs custody, during the twelve months preceding the month in which the bond is to be filed, divided by twelve. Before the payment of taxes may be deferred, the total amount of the bond or bonds filed with the assistant regional commissioner must be in an amount not less than the foregoing

amount plus an amount equal to the maximum amount of tax on tobacco products to be removed subject to tax during any semimonthly return period. The amount of any such bond (or the total amount where strengthening bonds are filed) shall not exceed \$500,000 for a manufacturer of cigars and cigarettes, shall not exceed \$50,000 for a manufacturer of tobacco, and shall not in any case be less than \$1,000. In the case of a manufacturer commencing business, the production, receipts from other factories, and releases to him from customs custody, without payment of tax, and maximum tax liability for any semimonthly return period, shall be estimated for the purpose of this section.

Extension of Coverage of Bonds. Manufacturers of tobacco, cigars, and cigarettes must furnish, with respect to all bonds executed prior to June 24, 1959, an extension of coverage of bond on Form 2105, specifically to bind the principal and the surety for the payment of tobacco taxes which payment has been deferred under the semimonthly return system. The extension of coverage will include the following statement:

"WHEREAS, the purpose of this extension is to bind the obligors for the payment of the tax on all tobacco products removed by the principal on determination of tax and before payment of the tax notwithstanding that the time for payment of tax may be deferred pursuant to a semimonthly return system as provided for by regulations.

"NOW, THEREFORE, the above described bond is further specifically conditioned that the principal named therein shall pay all taxes (plus penalties, if any, and interest) for which he may become liable with respect to all tobacco products removed by him on determination of the tax and before payment of the tax thereon, and comply with all provisions of law and regulations with respect thereto.

"The aforesaid terms and conditions shall on and after June 24, 1959, have the same force and effect as the other terms and conditions stated in the bond."

Documents To Be Filed. This extension of coverage of bond, and bond in an increased amount if required, should be promptly furnished to the assistant regional commissioner (alcohol and tobacco tax) for his approval which must be obtained by June 24, 1959, in order to defer payment of taxes beginning on that date. Three Forms 2105, overprinted with the statement required for this specific purpose, are attached for your use. Conferences have been held with representatives of the Surety Association of America, 60 John Street, New York, N. Y., to acquaint them of the new bonding requirements. They have assured us that they will issue instructions by June 4th so that all bonding companies will be prepared to act expeditiously on requests for bonds conforming with these proposed regulations.

Determination of Tax. It is emphasized that regulations will require that the tax on tobacco products shall be determined at the time of removal from the factory premises as described in the permit issued under Chapter 52, Internal Revenue Code. Manufacturers must provide adequate controls and facilities to establish accurately and record (a) the quantities of tobacco products removed without payment of tax or for transfer in bond, in accordance with existing regulations and (b) the quantity, kind, and class of all tobacco products removed subject to tax.

Record of Removals Subject to Tax. Manufacturers of tobacco, cigars, and cigarettes will keep a supporting record of tobacco products removed subject to tax and will make the required entries at the time of removal. The supporting record will show, with respect to each removal:

1. the date of removal,
2. the name and address of the person to whom shipped or delivered, and
3. the quantity and kind of tobacco products and, in the case of cigars and cigarettes, the class.

A daily summary of such removals will be maintained.

Where the manufacturer keeps at the factory copies of invoices or other commercial records containing the information required as to each removal in such orderly manner that the information may be readily ascertained by internal revenue officers, such copies, and a daily summary of such removals, will be considered an adequate supporting record.

Importations. Commercial importers of tobacco products, other than proprietors of customs bonded manufacturing warehouses, class 6, will pay tobacco taxes by return to the district director of internal revenue prior to release of the tobacco products from customs custody. The district director will issue a receipted copy of the importer's tax return for presentation by the importer to the appropriate customs officer in order to obtain release of the products from customs custody. The procedure will be substantially the same as that in effect since July 1, 1956, for cigars.

Packages. It is planned that certain information now appearing on the stamps will, on and after June 24, 1959, be required to be adequately stated on packages of domestic and imported tobacco products removed subject to tax. This information consists of the quantity and kind of tobacco products contained in the packages, such as:

1. "20 Class A cigarettes" or "20 small cigarettes" or
2. "10 Class B cigarettes" or "10 large cigarettes" or
3. "20 small cigars" or "20 little cigars" or
4. "5 large cigars" or "5 cigars" (the use of the word "large" will be optional since the class designation indicates such products to be large cigars) or
5. "1 1/2 oz. manufactured tobacco" or "1 1/2 oz. smoking tobacco" or "1 1/2 oz. tobacco" or "1 1/2 oz. snuff" etc.

This information may appear on the package itself or on a label, which may be the closure, securely affixed to the package. It is emphasized that the label must not simulate an internal revenue tax stamp. Existing supplies of packaging materials, such as those bearing a warning concerning stamps, may be used until exhausted. In this connection, some manufacturers have indicated a desire to include on the package a statement, such as "Federal stamps no longer required." There is no objection to such a statement, since it may eliminate inquiries to you and to this Service concerning the absence of Federal stamps on packages of tobacco products under the return system. However, no statement as to payment of internal revenue taxes may be shown. The words "Tax-exempt. For use outside U. S." or "U. S. tax-exempt. For use outside U. S." will be required to appear on packages of tobacco products removed for export purposes (including supplies for vessels and aircraft and supplies for use of the armed forces overseas), except where a stamp, sticker, or notice, required by a foreign country or a possession of the United States, which identifies such country or possession, is used.

Stamped Packages in Factories. Manufacturers having in their factories on June 23, 1959, packages of tobacco products which have not been removed but which have stamps affixed, should constructively remove such products on June 23, 1959, by entering them in their records as removed taxpaid and then entering the receipt of these taxpaid packages in Section V of their form record or the equivalent commercial record. Actual disposition of these packages will subsequently be recorded in such record.

Stamps. Tobacco products tax stamps can not be used after the close of business on June 23, 1959. However, unused and mutilated stamps may be redeemed in accordance with existing law, regulations, and procedures, which provide that claims must be filed within three years after the purchase of such stamps from the Government.

Tax Return Forms. The tax return forms are being prepared and it is anticipated that they will be mailed to you, early in June 1959.

Inquiries. While we hope that this industry circular proves helpful to you, it is understandable that you may need answers to specific questions. Please do not hesitate to address inquiries to the office of your assistant regional commissioner (alcohol and tobacco tax). A reference to the number of this industry circular would be helpful.



Dwight E. Avis
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Attachments.